

**AGENDA
ZONING BOARD OF ADJUSTMENT
NOVEMBER 4, 2019**

**AGENDA ITEM #2
APPROVAL OF MINUTES**

OCTOBER 7, 2019

DRAFT

LEBANON ZONING BOARD OF ADJUSTMENT
CITY HALL, COUNCIL CHAMBERS
MONDAY, October 7, 2019
7:00 PM

MEMBERS PRESENT: Chair William Koppenheffer, Vice Chair Jennifer Mercer, Alan Patterson Sr., Dan Nash, Paul McDonough (Alt), Dave Newlove (Alt), Jeremy Katz (Alt)

MEMBERS ABSENT: Jonathan Peress

STAFF PRESENT: Tim Corwin - Zoning Administrator

1. CALL TO ORDER:

The meeting was called to order at 7:05 PM by Chair Koppenheffer.

2. APPROVAL OF MINUTES: September 3, 2019

Mr. McDonough MOVED to approve the September 3, 2019 Minutes as presented in the October 7, 2019 agenda packet.

Seconded by Mr. Newlove.

**The MOTION passed unanimously (5-0).*

3. PUBLIC HEARINGS-Continued from September 3, 2019:

- A. BRENDAN HICKEY & MANON PRICE, 0 POVERTY LANE (Tax Map 188, Lot 32), zoned RL-1:** Applicant requests a Special Exception pursuant to Article III, Section 312.2 and Article VI, Section 610 of the Zoning Ordinance to allow an accessory dwelling unit within a proposed one-family dwelling. #ZB2019-22-SE

Brendan Hickey appeared on behalf of the application. They are building a house with a 2-car garage on Poverty Lane. They would like to build an apartment for his elderly mother-in-law. The main dwelling would be 1320 square feet and the ADU would be 750 or 620 square feet. The Ordinance says if the main unit is under 1500 square feet the ADU cannot be over 50% of the main unit. Mr. Hickey said he would ensure that the square footage of the ADU is 50% or less than the main dwelling. He believes he can meet the requirement.

Chair Koppenheffer opened the Public Hearing and hearing no further comments from the public, closed the public hearing.

The Board moved to deliberation and discussion. They discussed the condition that the ADU must be less than 50% of the main dwelling.

Chair Koppenheffer appointed Mr. Newlove to sit on this hearing.

Vice Chair Mercer MOVED on October 7, 2019, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared BRENDAN HICKEY regarding 0 POVERTY LANE (Tax Map 188, Lot 32), zoned RL-1, requesting a Special Exception pursuant to Article III, Section 312.2 & Article VI, Section 610 to allow an accessory dwelling unit within a proposed addition one-family dwelling. #ZB2019-22-SE

I. FINDINGS OF FACT

Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Zoning Board of Adjustment makes the following findings of fact:

1. The subject property is a +/-11.67 acre vacant parcel located in the Rural Lands One (RL-1) District. The applicant proposes to construct a one-family dwelling and a detached garage with an attached accessory dwelling unit (ADU).
2. An Accessory Dwelling Unit (ADU) is allowed by Special Exception within the RL-1 District pursuant to §312.2 of the Zoning Ordinance, and is defined in Appendix A as: “A separate complete housekeeping unit that is either contained within or is attached to a single-family dwelling, or within a detached accessory building on the same lot, for which the title is inseparable from the primary dwelling.”
3. In order to grant the Special Exception, the Board must find that the proposal meets the requirements for ADUs set forth in §610 of the Zoning Ordinance, as well as the general Special Exception criteria set forth in §801.3.
4. No one from the public spoke for or against the application.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Special Exception criteria set forth in §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by §312.2 & §610 of the Zoning Ordinance. (§801.3.A)
2. The special conditions/requirements of §610 are met. (§801.3.B)
3. There are no existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.C) Staff is not aware of any Zoning Ordinance violations on the property.
4. The character of the area will not be adversely affected. (§801.3.D)
5. No hazard or nuisance will be created. (§801.3.E)
6. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted. (§801.3.F)
7. The granting of the Special Exception will not result in undue municipal expense. (§801.3.G)
8. The proposed Special Exception will be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H)
9. The general welfare of the City will be protected. (§801.3.I)

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 7th day of October 2019, hereby **GRANTS** the applicant's request, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.
2. Prior to the issuance of a building permit, the owner shall obtain a permit from the State of NH Dept. of Environmental Services Subsurface Systems Bureau, in accordance with NH RSA 485-A:38.
3. The applicant shall sign a form furnished by the Planning & Development Department acknowledging that the property owner must occupy either the primary residence or the ADU as their permanent residence. The signed form shall be recorded at the Grafton County Registry of Deeds, and proof thereof shall be provided to the Zoning Administrator, prior to the issuance of any building permit or certificate of occupancy.
4. The ADU and the use thereof shall continue to meet the requirements of Section 610 of the Zoning Ordinance. In the event that the applicants or their successors no longer desire to comply with the restrictions set forth in the recorded acknowledgment, the applicants or their successors shall apply to the Zoning Board of Adjustment to approve a conversion of a two-family dwelling, or shall apply for whatever approval or relief is determined necessary by the Zoning Administrator, prior to using the home in any manner that is inconsistent with the recorded acknowledgment form
5. Due to the size of the main house, the ADU cannot exceed 50% of the square footage of the main dwelling unit.

Seconded by Mr. Nash.

**The MOTION passed unanimously (5-0).*

B. JOSEPH JORDAN ROMANO, 42 ELM STREET (Tax Map 92, Lot 205), zoned R-2: Applicant requests a Variance from Article III, Section 309.2 of the Zoning Ordinance to convert the existing one-family dwelling to a four (4) unit multi-family dwelling, which is not a permitted use in the R-2 District. **#ZB2019-21-VAR**

Joseph Jordan Romano, owner of 42 Elm Street appeared on behalf of the application. Last month the applicant was asked to provide information regarding the parking, which has been provided in the packet for the Board. By code, he is required to provide at least 6 parking spaces and the Board asked if the owner could provide 8 parking spaces. His goal is to provide off street parking for all his tenants and he intends to require that his tenants will not use street parking. The gate to the property is 13 feet wide. The parking spots are 9 feet by 18 feet. The diagram showed 6 parking spaces in addition to 2 spots in the garage. The picture appeared to show ample space for the parked vehicles and space to move the vehicles around.

Mr. Roman spoke to the hardship. Half of the dwellings in the quadrant are single family units. He spoke to the relationship of the size of the dwellings to the size of lots and what most of the multi-family dwellings are in the quadrant. In the past, the prior owner used the dwelling for adoptive children and that may be the reason it was not previously converted to a multi-family dwelling. He felt that the hardship is the building is too large to be a single-family dwelling and compared to others in the area, it is vastly larger than the other dwellings

The Board asked about the size of the lot compared to the number of units that the applicant is asking to

1 create. The applicant answered that he feels the number of units he is proposing is a larger ratio of lot to
2 unit than what already exists in that area. The Board asked about the general condition of the building when
3 it was purchased. He replied there were holes in the walls. Every system has failed, plumbing, electric,
4 roof and walls.

5
6 Dave Curtis, the contractor who would be on the job, was introduced. When it was appraised, the assessor
7 said the house is not habitable. There is something unique about the property that creates the hardship.
8 The house was purchased for \$225,000 and he intends to put in another \$200,000. Currently the house is
9 in disarray and a burden for the neighborhood.

10
11 **Chair Koppenheffer opened the Public Hearing.**

12
13 Frank Mastro appeared in opposition of the application. He said it was time for the City to take care of
14 some of these older buildings. He would like to see some of these old handsome homes be brought back
15 to their glory and remain as single-family units.

16
17 Mary Ann Mastro appeared in opposition of the application. She said she would prefer that more single-
18 family units were maintained in this neighborhood.

19
20 Mr. Corwin said that there were no conversions in the 1980s that were cited in the application. He feels the
21 majority of the conversions that were cited predated the 1960s, based on density requirements in the
22 ordinances at that time.

23
24 Mr. Romano asked to address the Board again. He explained his intentions and introduced himself to the
25 public who were present. He said his way of contributing back, is to try to help build the Lebanon
26 Community. His intention is to build properties that are affordable for the economic middle ground, around
27 \$1500 a month. He believes he will build housing that will enhance the Lebanon Community.

28
29 **Hearing no further comments from the public, the Chair closed the public hearing.**

30
31 Mr. Katz was appointed to sit on this hearing.

32
33 The Board spoke to the density restrictions in relationship to the lot size. The spirit of the ordinance is to
34 keep more single-family units. But for the lot size, this could have been a special exception. The
35 restrictions seem to reflect the need for off street parking. The Board believes there is adequate parking.
36 The City has mixed lot sizes amongst the older structures. One of the ways to bring the dwelling up to
37 date is to allow some variances. By repairing this building, it would make the neighborhood safer and
38 less attractive to unsavory behaviors.

39
40 *Mr. Nash MOVED on September 9, 2019 and October 7, 2019, at duly-noticed meetings of the*
41 *Lebanon Zoning Board of Adjustment, there appeared Joseph Jordan Romano and David Curtis,*
42 *Contractor, regarding 42 ELM STREET (Tax Map 92, Lot 205), zoned R-2. Applicant requests a*
43 *Variance from Article III, Section 309.2 of the Zoning Ordinance to convert the existing one-family*
44 *dwelling to a four (4) unit multi-family dwelling, which is not a permitted use in the R-2 District.*
45 *#ZB2019-21-VAR*

46 **I. FINDINGS OF FACT**

Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Zoning Board of Adjustment makes the following findings of fact:

1. The property is improved with a one-family dwelling. The applicant proposes to convert the home to a four (4) unit multi-family dwelling.
2. Conversion of buildings to multi-family dwellings is permitted in the R-2 District provided that the conversion complies with the requirements set forth in §601 (“Conversions of Older Residences and Other Buildings”). Here, the applicant is unable to comply with at least one of the §601 requirements; specifically, §601.4 which requires compliance with the applicable density requirements (per §309.3, the lot would need to be at least 0.37 acres in size instead of the existing 0.25 acres in order to meet §601.4).
3. Therefore, the proposed multi-family conversion is ineligible for a Special Exception per §601 and instead requires a Variance from §309.2 (the R-2 District table of permitted uses).
4. To obtain the requested Variance from §309.2, the applicant must demonstrate compliance with each of the five variance criteria as set forth in §801.2 of the Zoning Ordinance and NH RSA 674:33, I(b).
5. Sharon Cameron and Cliff Below spoke in favor of the application.
6. Frank and Mary Ann Mastro opposed the conversion of the large single-family home to a multi-family dwelling.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Variance criteria set forth in §801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest. (§801.2.A.1)
It is in the community interest to add housing with adequate off-street parking.
2. The spirit of the ordinance **is** observed. (§801.2.A.2)
3. Substantial justice **is** done. (§801.2.A.3)
4. The values of surrounding properties **are not** diminished. (§801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (§801.2.A.5.a):
The structure is one of the largest single-family homes in the surrounding R-2 zone and is surrounded by a majority of multi-family dwellings on under sized lots.
 - i. There **is not** a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. (§801.2.A.5.a.i)

- ii. The proposed use is a reasonable one. (§801.2.A.5.a.ii)
The use allows a safe and healthy restoration and use of the property that might not otherwise be possible.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 7th day of October 2019, hereby GRANTS the requested relief, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.
2. The applicant shall provide 6 off-street parking spaces unless the zoning administrator determines that additional spaces are required.

Seconded by Mr. Patterson.

**The MOTION passed unanimously (5-0).*

4. PUBLIC HEARING-NEW:

A. LUDWIG DIRKSE (applicant) and LOU DIRKSE, LLC (property owner), 20 GREEN STREET (Tax Map 92, Lot 135), zoned R-2: Applicant proposes to construct an addition onto the side of the existing home, which is currently located +/- 6 ft. from the side lot line shared with 18 Green Street. The proposed addition will be located +/- 8 ft. from the side lot line, where a minimum of 15 ft. is required for Class 1 lots. To permit the expansion of a non-conforming structure, the applicant requests a Special Exception pursuant to Article VII, Section 703.1 of the Zoning Ordinance. #ZB2019-24-SE

Ludwig Dirkse appeared on behalf of the application. He owns the abutting property to 20 Green Street. He purchased the property with the hopes of renovating it to a single-family dwelling for himself. The 8x12 addition would allow a large enough bedroom for a master suite, so he would not have to use stairs as he ages.

Chair Koppenheffer opened the Public Hearing

Kathy Elfstrom spoke in favor of the application. She lives directly across the street and is actually closer to the property than the applicant. She has no objections to the new addition.

Hearing no further comments from the public, the Chair closed the public hearing.

Mr. McDonough was appointed to sit on this hearing.

Vice Chair Mercer MOVED on October 7, 2019, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Ludwig Dirkse on behalf of the property owner Lou Dirkse, LLC, regarding 20 Green Street (Tax Map 92, Lot 135), zoned R-2. Applicant proposes to construct an addition onto the side of the existing home, which is currently located +/- 6 ft. from the side lot line shared with 18 Green Street. The proposed addition will be located +/- 8 ft. from the side lot line, where a minimum of 15 ft. is required for Class 1 lots. To permit the expansion of a non-conforming structure, the applicant requests a Special Exception pursuant to Article VII, Section 703.1 of the Zoning Ordinance. #ZB2019-24-SE

I. FINDINGS OF FACT

Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Zoning Board of Adjustment makes the following findings of fact:

1. The subject property is improved with a one-family dwelling constructed in the nineteenth century. As shown in the attached plot plan provided by the applicant, the existing home (at its closest) is located approximately six (6) ft. from the side lot line shared with 18 Green Street. As such, the existing home is non-conforming to the minimum side yard of 15 ft. required for Class 1 lots in the R-2 District.
2. The applicant proposes to construct an 8 ft. x 12 ft. addition on the west side of the home. The proposed addition will be located approximately eight (8) ft. from the side lot line, which is approximately two (2) feet further back than the existing non-conforming setback of approximately six (6) ft. Accordingly, the addition will be slightly more conforming to the minimum required 15 ft. side yard than the existing home.
3. Class 1 lots (lots that are served by municipal sewer and water) in the R-2 District must maintain a minimum side yard (i.e. a space unobstructed by buildings and structures) of 15 ft. See §309.3 of the Zoning Ordinance. §703.1 of the Zoning Ordinance allows the expansion of “any increase in the footprint and/or volume of the non-conforming part of the building or structure,” by Special Exception from the Zoning Board of Adjustment.
4. In order to grant a Special Exception for the proposed expansion, the Board must determine that the proposal meets the criteria set forth in §703.1.A of the Zoning Ordinance. Per §703.1.A.3, the Board must also determine that the proposal meets the general Special Exception criteria set forth in §801.3.
5. The applicant has submitted testimony addressing the §801.3 and §703.1.A criteria in an application received by the Planning Department on September 18, 2019.
6. Kathy Elfstrom spoke in favor of the application.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Special Exception criteria set forth in §801.3 of the Zoning Ordinance:

1. The Special Exception is specifically authorized by §703.1.A of the Zoning Ordinance.(§801.3.A)
2. The following special conditions/requirements §703.1.A **are** met (§801.3.B):
 - The reasonable use of abutting properties **is not** adversely affected by the proposed expansion. (§703.1.A.1)
 - The proposed expansion **will not** render the lot size proportionately less adequate, i.e. any aspect of the building or structure that is currently nonconforming cannot be made more non-conforming in the absence of a variance. (§703.1.A.2)
3. There **are no** existing violations of the Zoning Ordinance on the property that the granting of the Special Exception would not remedy. (§801.3.C) *Staff is not aware of any Zoning Ordinance violations on the property.*

4. The character of the area **will not** be adversely affected. (§801.3.D)
5. **No** hazard or nuisance will be created. (§801.3.E)
6. The capacity of existing or planned community facilities and services (including streets and highways) **will not** be adversely impacted. (§801.3.F)
7. The granting of the Special Exception **will not** result in undue municipal expense. (§801.3.G)
8. The proposed Special Exception **will not** be developed in a manner compatible with the spirit and intent of the ordinance. (§801.3.H)
9. The general welfare of the City **will** be protected. (§801.3.I)

III. **DECISION**

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this 7th day of October 2019, hereby **GRANTS** the requested Special Exception, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

- 1, The applicant shall obtain a building permit.

Seconded by Mr. Patterson.

****The MOTION passed unanimously (5-0).***

B. CONVENIENT MD LLC (applicant) and CT BROWN & FAMILY LLC, 1 INTERCHANGE DRIVE (Tax Map 114, Lot 9), zoned GC: Applicant requests a Variance from Section 608.4.A.1 of the Zoning Ordinance to install building signage totaling +/-514 sq. ft. The total proposed sign area for the property exceeds the maximum sign area allowed under Section 608.4.A.1. #ZB2019-25-VAR

Max Puyanik, CEO of Convenient MD and Barry Schuster, attorney, spoke on behalf of the application. Mr. Puyanik spoke of the nature of the work and the scope of care that is done by Convenient MD. They focus on reducing emergency hospital visits. He spoke of their civic and philanthropic commitment to provide reduced cost and some free medical services. Due to the large number of letters in their name, they are in need of a larger sign space. They are repurposing an existing building and the allowable signage space is already used by the current tenants. They want to ensure that the building sign is easily seen to ensure people get to them who need medical care. The signage would be in similar nature to surrounding buildings.

The Board asked if their signs are lit, and the sign would be lit. They discussed the frequency of their patients being transferred to the hospital. On average, 1% of the patients may have to be transferred and could use City ambulance services. They discussed the ordinance requirements for signage. Under the request, the applicants are asking for 8 times the allowable signage. This may not be a reasonable request. The applicants referenced several signs in the area; however, the Board believes these signs are in compliance with the zoning restrictions.

The Board discussed the request for such a large sign and confirmed that smaller signs have been used by the applicant at other facilities. The applicants think the North and West elevations are critical for larger signs and the South elevation is less crucial. In other communities the zoning variances have been

1 conditioned with the use.

2
3 The Board took a break at 8:42.

4
5 ***Chair Koppenheffer Moved to continue this hearing to the November meeting. He requested copies of***
6 ***all of the zoning approvals from other Convenient MD Urgent Care Centers that required some type of***
7 ***relief. In addition, what the applicant provides the Board, will also be, if the decision does not directly***
8 ***speak to it, copies of the documents submitted to the various Zoning Boards, showing dimensions of the***
9 ***signs. So that in affect, at our next meeting, we will have copies of all the signs you have on the seven***
10 ***Convenient MD Urgent Care Centers in New Hampshire. And that you give us a proposal consummate***
11 ***with what you have heard here tonight.***

12
13 ***Seconded by Mr. Nash.***

14
15 Staff said the footnote in the memo to the Board regarding the square footage of signage on the building
16 will be amended. The existing signage on the building is smaller than in the original staff memo. It is
17 hoped, in the future 216 square feet will be allowed. This property is unique because it has 4 streets that
18 affront the building.

19
20 **Chair Koppenheffer opened the Public Hearing and hearing no further comments from the public,**
21 **closed the public hearing.**

22
23 McDonough was appointed voting privileges for this hearing.

24
25 ****The MOTION passed (4-1). Mr. Patterson voted nay.***

26
27 **C. SOUTH MAIN STREET HOUSING TRUST, INC., PINE TREE LANE APTS (Tax Map**
28 **73, Lot 95), zoned R-3:** The property is improved with the Tree Lane Apartments multi-family
29 housing complex, which is a non-conforming use in the R-3 District. Applicant proposes to
30 construct an accessory building less than 1,000 sq. ft. in size to serve as a community building for
31 the residents of the complex. The proposed building will be located +/- 10 ft. from the lot line
32 shared with the Beechwood Lane multi-family housing complex (Tax Map 73, Lot 96). Applicant
33 requests Variances from Article III, Section 310.2 and Article VII, Section 702.5 of the Zoning
34 Ordinance to allow the expansion of the non-conforming multi-family housing complex use into a
35 new building, and from Article III, Section 310.3 to allow the building to be located +/- 10 ft.
36 from the lot line shared with Tax Map 73, Lot 96. **#ZB2019-26-VAR**

37
38 Mr. Newlove was appointed to sit on this hearing.

39
40 Kristine McDevitt, of Crafts Hill Apartments appeared on behalf of the application. They have obtained
41 tax credit funds to use to build a community center for the apartments. They own two adjoining pieces of
42 property with apartment complexes that abut one another. The community building would serve both
43 Housing complexes. The building would have space for support programs, a community gathering space,
44 and additional laundry facilities.

45
46 **Chair Koppenheffer opened the Public Hearing.**

47
48 Rick DiDomenico appeared to question where the new playground would be located. The playground is
49 intended to be moved and would not be placed in an area that is of concern to him.

50
51 **Hearing no further comments from the public, the public hearing was closed.**

Vice Chair Mercer MOVED on October 7, 2019, at a duly-noticed meeting of the Lebanon Zoning Board of Adjustment, there appeared Kristine McDevitt on behalf of the applicant and property owner, South Main Street Housing Trust Inc., regarding Pine Tree Lane Apartments (Tax Map 73, Lot 95), zoned R-3. The property is improved with the Tree Lane Apartments multi-family housing complex, which is a non-conforming use in the R-3 District. Applicant proposes to construct an accessory building less than 1,000 sq. ft. in size to serve as a community building for the residents of the complex. The proposed building will be located +/- 10 ft. from the lot line shared with the Beechwood Lane multi-family housing complex (Tax Map 73, Lot 96). Applicant requests Variances from Article III, Section 310.2 and Article VII, Section 702.5 of the Zoning Ordinance to allow the expansion of the non-conforming multi-family housing complex use into a new building, and from Article III, Section 310.3 to allow the building to be located +/- 10 ft. from the lot line shared with Tax Map 73, Lot 96. #ZB2019-26-VAR

I. FINDINGS OF FACT

Based on testimony given, application materials presented, and supporting documents submitted, the Lebanon Zoning Board of Adjustment makes the following findings of fact:

1. The subject property is improved with three (3) multi-family buildings constructed in 1978, containing a total of 50 dwelling units. The development on the subject property was historically identified as the Pine Tree Lane Apartments. It mirrors a similar 50-dwelling unit multi-family development located on the abutting property which was historically identified as the Beechwood Lane Apartments.
2. Both Pine Tree Lane Apartments and Beechwood Lane Apartments are owned and managed by South Main Street Housing Trust [(i.e. Twin Pines Housing Trust (“Twin Pines”))]. Twin Pines manages the two housing developments -- Pine Tree Apartments and Beechwood Apartments -- as a single complex that they refer to as “Crafts Hill”.
3. Crafts Hill (i.e. both the Pine Tree and Beechwood properties) are located in the R-3 District, which does not allow multi-family dwellings (unless approved as a PURD per Section 501). Therefore, Crafts Hill is a non-conforming use and is subject to Article VII of the Zoning Ordinance.
4. Twin Pines is proposing to construct a new community building/laundry facility to serve the needs of the residents of Crafts Hill. The new building will be +/-992 sq. ft. in size and will be located on the Pine Tree Apartments property. The building will replace an existing playground which will be relocated to another area on the property.
5. The building will be located on the Pine Tree Lane property approximately ten (10) feet from the lot line shared with the Beechwood Lane property. For zoning purposes, the lot line shared with the Beechwood Lane property is considered the rear lot line of the Pine Tree Lane property.
6. Multi-family dwellings are not a permitted use in the R-3 District. Therefore, Pine Tree Apartments is a legal non-conforming use and is subject to Article VII of the Zoning Ordinance (“Non-Conformities”). Section 702.5 allows expansions of non-conforming uses by Special Exception; however, subsection C provides that, “[i]n no case shall a non-conforming use be allowed to expand into a new building[.]” Consequently, the proposed community building requires a Variance from Sections 310.2 and 702.5 to allow the expansion of the non-conforming multi-family housing complex use into a new building.

7. Class 1 lots (i.e. lots that are served by municipal water and sewer) in the R-3 District must maintain a minimum rear yard (i.e. a space unobstructed by buildings and structures) of 20 ft. *See* Section 310.3 of the Zoning Ordinance. Therefore, the proposal also requires a Variance from Section 310.3 is required to permit construction of the community building ten (10) feet from the rear lot line where a minimum distance of 20 feet is required.
8. To obtain the requested Variances, the applicant must demonstrate compliance with each of the five variance criteria as set forth in §801.2 of the Zoning Ordinance and NH RSA 674:33, I(b). The applicant has submitted testimony addressing the §801.2 criteria in an application received by the Planning Department on September 26, 2019.
9. Rick DiDomenico, an abutter, asked some clarifying questions about the intended location of the playground relocation.

II. CONCLUSIONS OF LAW

As a result of the above findings of fact and based on testimony given, application materials presented, and supporting documents submitted, the Board concludes the following with respect to the Variance criteria set forth in §801.2 of the Zoning Ordinance:

1. The variance **will not** be contrary to the public interest. (§801.2.A.1)
2. The spirit of the ordinance **is** observed. (§801.2.A.2)
3. Substantial justice **is** done. (§801.2.A.3)
4. The values of surrounding properties **are not** diminished. (§801.2.A.4)
5. Literal enforcement of the provisions of the ordinance **would** result in an unnecessary hardship. Owing to **[the following]** special conditions of the property that distinguish it from other properties in the area (§801.2.A.5.a):

The normal hardship criteria do not apply as RSA674:33 allows for granting a variance without finding a hardship if the variance is providing for ADA compliance and accessibility.
The proposed facility would provide access to laundry and a gathering space for all the residents, including residents with ADA needs.
The Board finds the proposal is in harmony with the general purpose and intent of the zoning ordinances.

III. DECISION

Now therefore be it resolved, the Lebanon Zoning Board of Adjustment, on this **7th day of October 2019**, hereby **GRANTS** the requested relief, as set forth above and per testimony, plans, and materials submitted, and per the following conditions:

1. The applicant shall obtain a building permit.

Seconded by Mr. Nash.

**The MOTION passed unanimously (5-0).*

1 **5. OTHER BUSINESS:**

2
3 **A. ZONING BOARD OF ADJUSTMENT BY-LAWS:** Discussion of proposed
4 amendments.

5
6 Staff discussed the historical purpose of the adjustments to the by-laws. Mr. Katz discussed his
7 concerns regarding the lack of fair representation and the ability for an applicant to obtain a
8 continuation based on the number of Board members.

9
10 *Chair Koppenheffer Moved to send the proposed amendments to the City's attorney.*

11 *Seconded by Mr. Katz.*

12 **The MOTION passed unanimously (5-0).*

13
14 **6. STAFF COMMENTS: None**

15
16
17 **7. ADJOURNMENT:**

18
19 *Mr. Patterson MOVED to adjourn the meeting at 9:45 PM.*

20 *Seconded by Mr. Nash.*

21 **The MOTION passed unanimously (5-0).*

22
23 Respectfully Submitted,

24
25 Linda Billings

26 Recording Secretary

27